

§ 14-113.13. Financial transaction card fraud.

(a) A person is guilty of financial transaction card fraud when, with intent to defraud the issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he

- (1) Uses for the purpose of obtaining money, goods, services or anything else of value a financial transaction card obtained or retained, or which was received with knowledge that it was obtained or retained, in violation of G.S. 14-113.9 or 14-113.11 or a financial transaction card which he knows is forged, altered, expired, revoked or was obtained as a result of a fraudulent application in violation of G.S. 14-113.13(c); or
- (2) Obtains money, goods, services, or anything else of value by:
 - a. Representing without the consent of the cardholder that he is the holder of a specified card; or
 - b. Presenting the financial transaction card without the authorization or permission of the cardholder; or
 - c. Representing that he is the holder of a card and such card has not in fact been issued; or
 - d. Using a financial transaction card to knowingly and willfully exceed:
 1. The actual balance of a demand deposit account or time deposit account; or
 2. An authorized credit line in an amount which exceeds such authorized credit line in the amount of five hundred dollars (\$500.00), or fifty percent (50%) of such authorized credit line, whichever is greater; or
- (3) Obtains control over a financial transaction card as security for debt; or
- (4) Deposits into his account or any account, by means of an automated banking device, a false, fictitious, forged, altered or counterfeit check, draft, money order, or any other such document not his lawful or legal property; or
- (5) Receives money, goods, services or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered or counterfeit or that the above deposited item was not his lawful or legal property.

(b) A person who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card by the cardholder, or any agent or employee of such person is guilty of a financial transaction card fraud when, with intent to defraud the issuer or the cardholder, he

- (1) Furnishes money, goods, services or anything else of value upon presentation of a financial transaction card obtained or retained in violation of G.S. 14-113.9, or a financial transaction card which he knows is forged, expired or revoked; or
- (2) Fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished.

Conviction of financial transaction card fraud as provided in subsection (a) or (b) of this section is punishable as provided in G.S. 14-113.17(a) if the value of all money, goods, services and other things of value furnished in violation of this section, or if the difference between the value actually furnished and the value represented to the issuer to have been furnished in

violation of this section, does not exceed five hundred dollars (\$500.00) in any six-month period. Conviction of financial transaction card fraud as provided in subsection (a) or (b) of this section is punishable as provided in G.S. 14-113.17(b) if such value exceeds five hundred dollars (\$500.00) in any six-month period.

(c) A person is guilty of financial transaction card fraud when, upon application for a financial transaction card to an issuer, he knowingly makes or causes to be made a false statement or report relative to his name, occupation, financial condition, assets, or liabilities; or willfully and substantially overvalues any assets, or willfully omits or substantially undervalues any indebtedness for the purpose of influencing the issuer to issue a financial transaction card.

Conviction of financial transaction card fraud as provided in this subsection is punishable as provided in G.S. 14-113.17(a).

(c1) A person authorized by an acquirer to furnish money, goods, services or anything else of value upon presentation of a financial transaction card or a financial transaction card account number by a cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, acquirer, or cardholder, remits to an issuer or acquirer, for payment, a financial transaction card record of a sale, which sale was not made by such person, his agent or employee, is guilty of financial transaction card fraud.

Conviction of financial transaction card fraud as provided in this subsection is punishable as provided in G.S. 14-113.17(a).

(d) A cardholder is guilty of financial transaction card fraud when he willfully, knowingly, and with an intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, submits, verbally or in writing, to the issuer or any other person, any false notice or report of the theft, loss, disappearance, or nonreceipt of his financial transaction card.

Conviction of financial transaction card fraud as provided in this subsection is punishable as provided in G.S. 14-113.17(a).

(e) In any prosecution for violation of G.S. 14-113.13, the State is not required to establish and it is no defense that some of the acts constituting the crime did not occur in this State or within one city, county, or local jurisdiction.

(f) For purposes of this section, revocation shall be construed to include either notice given in person or notice given in writing to the person to whom the financial transaction card and/or personal identification code was issued. Notice of revocation shall be immediate when notice is given in person. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to such person at his last address known to the issuer, shall be prima facie evidence that such notice was duly received after seven days from the date of the deposit in the mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received 10 days after mailing by registered or certified mail. (1967, c. 1244, s. 2; 1979, c. 741, s. 1; 1989, c. 161, s. 2.)